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May 7, 2023

United States District Court
District of Nevada
Hon. Jennifer A. Dorsey
333 Las Vegas Blvd South
Las Vegas, NV 89101

FILED	RECEIVED
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COUNSEL/PARTIES OF RECORD	
JUN - 1 2023	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

RE: Robert Miller v. 4Internet, LLC
Case No. 2:18-cv-02097-JAD-VCF

Your Honor:

I am writing pursuant to FRCP 60(b)(6) requesting that you reconsider the financial judgment imposed on me pursuant to the granting of the Defendant's motion for fees and costs and denying counter-defendant's motion for sanctions [Dkt. No. 140]. More specifically, in the interests of justice, I am requesting that the Court relieve me of financial responsibility for the resulting judgment and, for the reasons set forth below, impose that judgment on my attorney Matthew Higbee of Higbee and Associates. I am also requesting that Your Honor temporarily stay the enforcement of the resulting judgment during the pendency of your consideration of this application since there are a number of issues related to my attorney's representation of me in the judgment collection process that are also going on in New York.

At its heart, the reason I am making this application is that I was never properly informed about all of the associated risks that this case included by Mr. Higbee or his staff. For example, I was never told by Mr. Higbee that this case was contrary to the existing law for the 9th Circuit and that in bringing this lawsuit I would be exposing myself to the potential for reverse legal fees that I could not afford. I would never have allowed this case to be filed or continued to pursue this matter if I would have been given the correct information from my attorney. There is simply no rationale reason why, had I been properly informed, I would have authorized a case where my potential recovery was a tiny fraction of the potential risk of \$99,604.42 in awarded attorney fees. I do not personally have any interest in challenging existing law or changing the law in the 9th Circuit. This case was at all times driven by Mr. Higbee who never explained to me any of the details or risks. Because this was my lawyer's case and not mine, I believe that I should not be held personally responsible, but it should be an obligation of my lawyer. This is the course he steered and not one he informed me of.

I do not have this kind of money to risk and, if I would have been properly informed, this never would have happened. This case would not have been filed. This case would not have been pursued and litigated. And this case would not have resulted in such a large judgment I cannot afford.

I have been asking questions and I have been getting answers but every time I do some homework to learn some more I find the answers I was given are simply not true. For example,

I was told this was a clear case of an infringement which I understood to be a display of my photo on a website that is an online publication news site with advertisements around it on the same page. I have asked for a copy of this but have never been given it despite repeated requests. Now, after the case is over, I find out this case is based upon a link of my picture from the NY Post and not the clear infringement I was led to believe had occurred.

I never would have pursued this case in a district court that was subject to existing precedent that dictated I would lose the case in the district court. I have zero interest in being involved in a litigation seeking to change existing law since I cannot afford the stakes involved in that type of action and, personally, I do not have anywhere near enough of an interest in the outcome that I would want to be a plaintiff under those circumstances. I do not understand how Mr. Higbee was not aware of this law before filing the case in this district court and, if he was, at no time did he tell me of the risks of bringing this claim. Had he done so, which my understanding is required of an attorney, this case would not have been started and certainly would not have been litigated in the manner in which it was.

Additionally, I first learned that this case was being pursued as a result of being informed that I was being sued personally by the opposing party before the case started. I did learn eventually that this personal lawsuit against me was dismissed. However, I learned that a second attempt to personally sue me was pursued and also dismissed when I was told to attend a deposition for this lawsuit. At that time, I learned that this case had been filed and continued to be pursued. At that time, I said to Mr. Higbee that after an attempt to sue me personally twice I should have been told the lawsuit was still being pursued and was advised by Mr. Higbee that this case was important for the law firm to pursue and it was a solid case.

Since the judgment was entered against me, I have attempted to discover more of the details involved with this matter and to work with Mr. Higbee to resolve the outstanding judgment against me. Mr. Higbee told me that I have a very good chance of winning the appeal he filed. However, when I discussed this with other attorneys, I have been told that my appeal is poorly preserved since Mr. Higbee did not create a good record for appeal. I was also told that even if he had done the appropriate job in trying to change existing law, that the odds of that happening are very small making the risk and cost of trying to do so very high. Mr. Higbee had no basis for believing that I would want to be involved in anything that risky or difficult and never informed me of these risks; even after putting me in this situation. I feel that he has represented his own issues and not mine in this matter since had he put my interests first none of this would have ever happened.

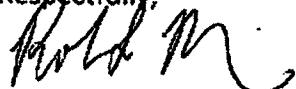
Mr. Higbee has agreed at various times to accept some responsibility for the judgment against me and at other times has encouraged me to sue him for malpractice. While I have been told I have a very good malpractice claim, I will need to pay new counsel to bring that claim and therefore I will still lose money I do not have attempting to go that route. The only route that will not leave me personally harmed by the actions of my attorney are for this Court to use its power to recognize that this case was improperly brought by my attorney without having informed me of the risks and then was litigated by that same attorney without any consideration of the harm he was doing to me personally. Under those circumstances, he should be the one hurt by his actions not me.

Your Honor, as a result of decisions made by an attorney who was supposed to be representing my interests and not his own, I now risk losing my apartment which was obtained through an affordable housing program sponsored in NYC for people based upon their income. This is an overbearing financial burden on myself as I near retirement age and after having open heart surgery two years ago. I work very hard and am a dedicated photojournalist. I earn everything for myself without having to ask anyone for help.

At this time however, I am asking you for your consideration in resolving this matter for me since I cannot sustain the financial loss associated with this matter. There is so much more than I have put in this letter, if you believe it would be helpful, I would welcome the opportunity to address these matters with the court directly.

Thank you for your consideration of this request.

Respectfully,



Robert Miller

cc:

Mathew K. Higbee
Ryan L. Isenberg

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XRAYED US MARSHALS SERVICE

US District Court
Honorable Jennifer Dorsey
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